IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Bail Appl..No. 4114 of 2007()

CRIME NO.214/2007 OF NEDUPUZHA POLICE STATION

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: APPLICANT/ACCUSED

SANGEETHA, AGED 20 YEARS, W/O.SANOOP,
KOLARA HOUSE, NEAR AYYAPPANKAVU TEMPLE,
VADOOKARA, THRISSUR.

BY ADV. SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY SUB-INSPECTOR OF POLICE,
NEDUMPUZHA POLICE STATION,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4114 of 2007

Dated this the 3rd day of July 2007

O R D E R

Application for anticipatory bail. The petitioner, a young mother, aged about 20 years is alleged to have put her new born baby to death by strangulation. The petitioner was pregnant. She allegedly gave birth to a live child. The death of the child was allegedly caused by the petitioner. The petitioner had allegedly concealed the body of the child along with some clothes in a box in her room. She was removed to the hospital because there was bleeding. At the hospital, it was revealed that she has given birth to a child. The petitioner had allegedly asked her husband's relatives to burn the clothes kept in her room. When they attempted to do that, they realised that there was a body of a baby child in such box. The F.I statement was lodged by the brother of the mother-in-law, who stays adjacent to the matrimonial home of the petitioner. Initially, it was registered under Section 318 I.P.C. Further investigation revealed, after securing the postmortem report that it was a live birth and death was on account of strangulation. Investigation is in progress. The petitioner has now been discharged from the hospital, submits the learned Public Prosecutor. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the

petitioner is absolutely innocent. Even accepting the entire allegations, it is very difficult at this stage to ascertain and fix the responsibility for the death/murder of the child. The learned counsel for the petitioner passionately touches on the possibility of the mother-in-law, husband etc. having been responsible for causing the death of the child. He submits that the petitioner had given birth to the child accidentally while answering calls of nature. There was profuse bleeding and she was removed to the hospital. She did not know what happened to the child. This, in short, is the contention raised.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the interests of a proper and efficient investigation certainly requires exhaustive and thorough questioning of the petitioner. Permitting the petitioner to arm herself with an order of anticipatory bail could be counter productive in the attempt to discover truth. The petitioner has got to be questioned and the investigator may not be deprived of an effective opportunity for such interrogation. If not the petitioner, someone else is really responsible for causing the death of the baby. The persons responsible will have to be ascertained and brought to book. The police shall not, in any way, vex or harass the petitioner. They are interested only in ascertaining the truth. If the petitioner is not responsible, she is unlikely to be arrested. At any rate, this court may

not invoke the jurisdiction under Section 438 Cr.P.C to enable the petitioner to avoid effective interrogation, if necessary, in custody. In these circumstances, this petition may be dismissed, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. I shall not encumber the records or any unnecessary expression of opinion on merits. I totally agree with the learned Public Prosecutor that the petitioner has to be interrogated effectively to ascertain the truth. I am not satisfied that there is any circumstance justifying the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C, in the facts and circumstances of this case. The petitioner must co-operate with the investigators. I am not satisfied that the petitioner deserves to be granted anticipatory bail. This, I am satisfied, is a fit case where the petitioner must co-operate with the investigating officer, appear before the investigating officer or the learned Magistrate having jurisdiction and then apply for bail. Such application for bail will certainly have to be considered by the learned Magistrate, in accordance with law and on merits.

5. In the result, this petition is dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007